



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

[REDACTED]

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 16, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dodge County Department of Human Services in regard to Medical Assistance, a telephonic hearing was held on May 28, 2015, at Juneau, Wisconsin.

In this case, Dodge County worker [REDACTED] sent a March 26, 2015 notice to the petitioner's parents, [REDACTED] informing them that [REDACTED] eligibility for the Children's Long Term Support (CLTS) services program would discontinue effective April 30, 2015, due to his no longer meeting the SED Level of Care requirement necessary to be continue eligibility for those programs. The petitioner has been eligible for the programs since about 2012 under the Severe Emotional Disturbance (SED) Level of Care. The petitioner's mother timely appealed the denial on April 16, 2015.

During that May 28, 2015 hearing, the petitioner's representative (his mother) requested that the hearing record be held open for documents submitted during the hearing and documents submitted after the hearing to be sent to the Dodge County agency representative for a reconsideration decision.

Ms. [REDACTED] sent a May 27, 2015 summary letter with about 100 pages of persuasive documents which included: a) a relevant May 27, 2015 letter from petitioner's physician, [REDACTED]; b) a recent CLTS Family Functional Screen of the petitioner; c) Police reports; d) Incident reports (including Seclusion and Restraint reports); d) waiver assessments; e) IEP report; and other documents to support the petitioner's contention that the new evidence established that petitioner should remain eligible for CLTS under some level of care.

This ALJ sent a June 14, 2015 cover letter to [REDACTED] at the county agency with a copy of the above Exhibits and documents submitted to DHA on or about June 9, 2015 with instructions to review the enclosed copies of letters/documents, and submit a reconsideration summary to me at DHA by June 30, 2015 with a copy of that reconsideration summary letter to be sent to the petitioner's mother as his representative. During the hearing, the petitioner's representative requested an opportunity to respond to [REDACTED]'s reconsideration summary. The petitioner's representative was granted until July 10, 2015 to respond to [REDACTED]'s summary, if she wished.

This ALJ then sent the following August 6, 2015 letter to [REDACTED] and Ms. [REDACTED]:

DHA has received an August 4, 2015 fax from Ms. [REDACTED] which included a July 30, 2015 eight page evaluation by [REDACTED] of the petitioner. That fax is not easily legible, so I request that Ms. [REDACTED] mail to me at the above address a clean,

legible copy of that evaluation. Ms. [REDACTED] should also promptly send a copy of that complete report to [REDACTED] if she has not already done so.

On July 14, 2015, [REDACTED] sent a letter to me at DHA with a copy to Ms. [REDACTED]. In that letter, [REDACTED] confirmed that there did appear to be a "change of condition" for [REDACTED] and she did want to review the future report by [REDACTED]. [REDACTED] offered to then meet with [REDACTED] and his family to "edit" any changes to the petitioner's functional screen.

**By August 20, 2015**, I instructed both parties to meet and complete the updated, edited functional screen based upon the new medical evidence. **By August 27, 2015**, I request that [REDACTED] send to me (with a copy to Ms. [REDACTED]) a complete copy of that updated functional screen with a detailed written closing argument as to the status of the April 30, 2015 discontinuance of petitioner's CLTS Waiver program. If the agency decides that based upon petitioner's change of condition that [REDACTED] is eligible for the CLTS Waiver, the agency should send to me a stipulation stating such eligibility retroactive to April 30, 2015. **By September 4, 2015**, I request that Ms. [REDACTED] send to me (with a copy to [REDACTED]) her detailed response to the updated functional screen and [REDACTED]'s closing argument.

[REDACTED] sent an August 20, 2015 cover letter to DHA stating that as a result of the August 19, 2015 edit to the CLTS functional screen the petitioner received and met the DD and SED Levels of Care, that petitioner was thus eligible for CLTS Wavier program eligibility retroactive to May 1, 2015 (the date of discontinuance).

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED], case manager  
Dodge County Department of Human Services  
143 E. Center Street  
Juneau, WI 53039-1371

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

[REDACTED]

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is an 8 year old resident of Dodge County who resides with his parents.
2. During February/March, 2015, the petitioner's parents participated in a review application on behalf of the petitioner for continued Children's Long Term Support Home and Community-Based Services Waiver (CLTS Waiver) benefits.
3. The county agency conducted a CLTS Functional Screen of the petitioner.
4. The county agency sent a March 25, 2015 letter to the petitioner's parents stating that the petitioner's re-application for the Children's Long Term Support Waiver was discontinued effective April 30, 2015, due to no longer meeting the Level of Care eligibility requirement. See Exhibit 1.
5. The petitioner's mother filed a timely April 16, 2015 appeal at DHA of the petitioner's April 30, 2015 CLTS discontinuance.
6. This Administrative Law Judge (ALJ) sent June 14, 2015 and August 6, 2015 cover letters to [REDACTED] at the county agency (and to petitioner's mother) with a copy of the Exhibits and documents submitted to DHA during and after the hearing. See above Preliminary Recitals.
7. County agency case manager, [REDACTED], sent an August 20, 2015 reconsideration summary to DHA with a copy to the petitioner's parent. [REDACTED] stated that based upon the edit to the August 19, 2015 CLTS Functional Screen (based upon new evidence and information provided by the petitioner's family and report by [REDACTED]) that petitioner does meet the Developmental Disability (DD) and Severe Emotional Disturbance (SED) levels of care for continued eligibility for long term care services. As a result, petitioner's CLTS Waiver is restored retroactive to the date of discontinuance, May 1, 2015. See August 20, 2015 letter and above Preliminary Recitals.

### CONCLUSIONS OF LAW

1. The petitioner's care needs meet the CLTS Developmental Disability (DD) and Severe Emotional Disturbance (SED) Levels of Care.
2. The county agency stipulated that it will restore the petitioner's eligibility for the CLTS Waiver as of May 1, 2015 discontinuance date.

**THEREFORE, it is**

### ORDERED

That the matter herein is remanded to the county agency (**Attention: Dodge County Case Manager [REDACTED]**) with instructions to take the necessary administrative actions to restore the petitioner's Children's Long Term Support Home and Community-Based Services Waiver eligibility retroactive to May 1, 2015, within 10 days of the date of this Decision.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

[REDACTED]

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## **APPEAL TO COURT**

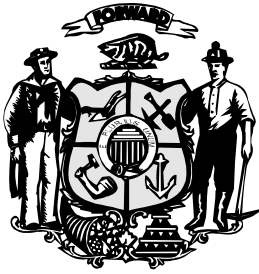
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 25th day of August, 2015

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\sGary M. Wolkstein  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on August 25, 2015.

Dodge County Department of Human Services  
Bureau of Long-Term Support